

**MANILA ELECTRIC COMPANY AND PEDRO YAMBAO,
PETITIONERS-APPELLANTS, VS. THE HONORABLE COURT OF
APPEALS AND ISAAC CHAVES, SR., ISAAC O. CHAVES, JR., ROSENDO
O. CHAVES, AND JUAN O. ...**

G.R. No. L-39019. January 22, 1988

Ponente: YAP, J.

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YAP, J.:

In an action for recovery of damages for embarrassment, Humiliation, wounded feelings and hurt pride, caused to herein Private respondents, by reason of the disconnection of their electrical service by the petitioners, the then Court of First Instance of Manila, Sixth Judicial District, Branch XXIV, rendered a decision dated December 13, 1967, ordering herein petitioners jointly and severally to pay private respondents the sum of Ten Thousand (P10,000.00) Pesos as moral damages, Two Thousand (P2,000.00) Pesos as exemplary damages and One Thousand (P1,000.00) Pesos as attorney's fees, and dismissing petitioners' counterclaim.

On appeal, the Court of Appeals affirmed in toto the trial court's decision. Their Motion for Reconsideration having been denied, petitioners filed the instant petition for certiorari.

Petitioner Manila Electric Company (MERALCO) is a public utility corporation providing electric power for the consumption of the general public in Metro Manila. Petitioner Pedro Yambao is a bill collector of MERALCO.

Private respondents Isaac Chaves and Juana O. Chaves, husband and wife, filed the complaint for damages, together with their children, Isaac O. Chaves, Jr. and Rosendo O. Chaves. Isaac Sr. and Isaac Jr. and Rosendo were members of the Philippine Bar; Isaac, Sr. and Isaac, Jr. were practicing lawyers and Rosendo was a Legal Officer at the Agricultural Productivity Commission. Juana O. Chaves was a public school teacher.

The facts as found by the trial court and adopted by the Court of Appeals are as follows:

“Plaintiff Isaac Chaves became a customer of defendant MERALCO in the year 1953 when he and his family were residing at No. 211- D Rubi, Manila. In connection with the contract for electrical service, he deposited the sum of P5.00 (Exh. ‘A’) with defendant MERALCO on February 12, 1953. This deposit in the name of plaintiff Isaac Chaves was retained by MERALCO and made to apply to subsequent . contracts for electrical service entered into after subsequent transfers of the Chaves family to other residences and up to the time this family went to reside at the place aforementioned, at No. 2656 Mercedes Street, Singalong, Manila x x x.

“At or about the end of March, 1965, defendant Pedro Yambao went to the residence of plaintiffs and presented two overdue bills, one for January 11 to February 9, 1965, for the sum of P7.90 (Exhibit ‘C’), and the other for February 9 to March 10, 1965, for the amount of P7.20 (Exhibit ‘C-1’). Juana O. Chaves, however, informed Yambao that these bills would be paid at the MERALCO main office.

“Accordingly, on April 2, 1965, Isaac Chaves went to the defendant’s main office at San Marcelino, Manila, but paid only the bill marked as Exhibit C leaving the other bill identified as Exhibit ‘C-1’ unpaid.

“Past 2:30 o'clock in the afternoon of April 21, 1965, MERALCO caused the electric service in plaintiffs residence to be discontinued and the power line cut off.

“The next day, April 22, 1965, at about 9:00 a.m., plaintiff Rosendo O. Chaves went to the MERALCO main office and paid the amount of P7.20 for the bill marked as Exhibit ‘C-1’ and the sum of P7.00 for the subsequent bill corresponding to the period from March 10 up to April 8, 1965 (Exhibit ‘C-2’) after his attention was called to the latter account. Rosendo O. Chaves then sought the help of Atty. Lourdy Torres, one of the defendants’ counsel, and, thereafter, the power line was reconnected and electric service restored to the Chaves residence at about 7:00 p.m. of that same day.”[1]

Petitioners dispute the finding that there was no notice given to herein respondent. However, since only questions of law may be raised in a petition for certiorari under Rule 45 of the Revised Rules of Court, petitioners, “for the sake of argument and for the purpose of giving focus on the legal issues,” do not take issue with such finding.

Petitioners contend that in the absence of bad faith, they could not be held liable for moral and exemplary damages as well as attorney’s fees. The failure to give a notice of disconnection to private respondents might have been a breach of duty or breach of contract, but by itself does not constitute bad faith or fraud; it must be shown that such a failure was motivated by ill will or done with fraudulent intent. Petitioners also maintain that since private respondents were in arrears in the payment of their electricity bills when their electric service was disconnected, no moral damages may be recovered by them under the “clean hands” doctrine enunciated in *Mabutas vs. Calapan Electric Company*, CA-G.R. No. L-9583-R, May 26, 1964.

In its decision, the respondent Court of Appeals held that MERALCO's right to disconnect the electric service of a delinquent customer “is an absolute one, subject only to the requirement that defendant MERALCO should give the customer a written notice of disconnection 48 hours in advance.” This requirement is embodied in Section 97 of the Revised Order No. 3 of the Public Service Commission, which provides as follows:

“Section 97. Payment of bills. — A public service, may require that bills for service be paid within a specified time after rendition. When the billing period covers a month or more, the minimum time allowed will be ten days and upon expiration of the specified time, service may be discontinued for the non-payment of bills, provided that a 48 hours’ written notice of such disconnection has been given the customer: Provided, however, that disconnections of service shall not be made on Sundays and official holidays and never after 2 p.m. of any working day: Provided, further, that if at the moment the disconnection is to be made the customer tenders payment of the unpaid bill to the agent or employee of the operator who is to effect the disconnection, the said agent or employee shall be obliged to accept tender of payment and issue a temporary receipt for the amount and shall desist from disconnecting the service.”[2]

The respondent court stressed the importance and necessity of the 48-hour advance written notification before a disconnection of service may be effected. Said the court:

“xxx It sets in motion the disconnection of an electrical service of the customer by giving the notice, determining the expiration date thereof, and executing the disconnection. It, therefore, behooves the defendant MERALCO that before it disconnects a customer’s electrical service, there should be sufficient evidence that the requirements for the disconnection had been duly complied with, otherwise, the poor consumer can be subjected to the whims and caprices of the defendant, by the mere pretension that the written notice had been duly served upon the customer.”[3]

We find no reversible error in the decision appealed from. One can not deny the vital role which a public utility such as MERALCO, having a monopoly of the supply of electrical power in Metro Manila and some nearby municipalities, plays in the life of people living in such areas. Electricity has become a necessity to most people in these areas, justifying the exercise by the State of its regulatory power over the business of supplying electrical

service to the public, in which petitioner MERALCO is engaged. Thus, the state may regulate, as it has done through Section 97 of the Revised Order No. 1 of the Public Service Commission, the conditions under which and the manner by which a public utility such as MERALCO may effect a disconnection of service to a delinquent customer. Among others, a prior written notice to the customer is required before disconnection of the service. Failure to give such prior notice amounts to a tort, as held by us in a similar case,[4] where we said:

“x x x petitioner’s act in “disconnecting respondent Ongsip’s gas service without prior notice constitutes breach of contract amounting to an independent tort. The prematurity of the action is indicative of an intent to cause additional mental and moral suffering to private respondent. This is a clear violation of Article 21 of the Civil Code which provides that ‘any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for damages.’ This is reiterated by paragraph 10 of Article 2219 of the Code. Moreover, the award of moral damages is sanctioned by Article 2220 which provides that ‘wilfull injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.’”

Likewise, we find no merit in petitioners’ contention that being in arrears in the payment of their bills, the private respondents are not entitled to moral damages under the doctrine that “he who comes to court in demand of equity, must come with clean hands.” We rejected this argument in the Manila Gas Corporation case, *supra*, wherein we held that respondents’ default in the payment of his bills “cannot be utilized by petitioner to defeat or nullify the claim for damages. At most, this circumstance can be considered as a mitigating factor in ascertaining the amount of damages to which respondent xxx is entitled.”

ACCORDINGLY, we find no grave abuse of discretion committed by respondent court in affirming the trial court’s decision. The petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

[1] Rollo. p.

[2] Rollo, pp. 35-36.

[3] *Ibid.*, p. 39.

[4] *Manila Gas Corporation vs. Court of Appeals*. 100 SCRA 602.

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